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# Alberta man claims his sleep disorder was the reason for killing his one-year-old son

 *The Crown says that evidence suggests the man was intoxicated at the time of the attack*



CP, The Canadian Press  
Daniela Germano

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Coat of Arms at the Edmonton Law Courts building, in Edmonton on Friday, June 28, 2019. A lawyer representing an Alberta man accusing of killing his one-year-old son says his client should be found not criminally responsible because he has a mental disorder caused by a severe sleep disorder. PHOTO BY JASON FRANSON /The Canadian Press

A man who killed his one-year-old son should be found not criminally responsible because he had a severe sleep disorder that made him do things he wasn't aware of, his lawyer told court during closing arguments.

The man from Fort Saskatchewan, northeast of Edmonton, was charged with second-degree murder in November 2019. He was also charged with assaulting his five-year-old daughter.

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Ziv said the expert found “thumbprints” of parasomnia, a disorder in which people do things while asleep that they are unaware of, such as sleepwalking. The expert testified he saw multiple arousals during the man’s deep sleep, Ziv noted.

“We lost that ability to capture better evidence, given the time frame in question,” Ziv told Court of Queen’s Bench Justice John Henderson. “And of course (my client) was in jail for a period of time as well.”

Ziv also added that there aren’t many doctors who provide evidence on sleep deprivation and the COVID-19 pandemic made it more difficult to get medical experts.

The judge-alone trial has heard that the man has a history of substance abuse, including cocaine, alcohol, heroin and prescription opioids. He admitted to self-medicating his back pain with heroin and illegally obtained Percocet.

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The man admitted to killing his son but said he had no memory of it.

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Court has heard the man, who was unemployed, was watching the children while their mother was at work. The Crown said he awoke in a state of anger before killing his son and then striking

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“To say this is a sad case does not capture the tragedy of it,” Ziv said. “On that day, the family unit ended with no foreseeable prospect of reunification.”

He said his client has not seen his daughter since his son’s death and it’s unclear if or when that will happen.

“Hopefully through proper future care and reflection, (my client) will be able to forgive himself. (He) has a long road ahead of him,” Ziv said.

“It’s my submission that his healing should continue under the care of the Alberta Review Board, not a penitentiary.”

In her closing arguments Friday, Crown attorney Sandra Christensen-Moore said evidence suggested the man was intoxicated at the time of the attack, which would affect his ability to form the intent needed for a second-degree murder charge.

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She said he had taken about 12 Percocet less than 24 hours before killing his son.

Christensen-Moore told the judge he should consider finding the man guilty of manslaughter.

She said a forensic psychologist testified that the man had anger management problems and his testimony on when he consumed drugs was inconsistent.

Christensen-Moore said the accused was often combative and evasive when answering questions on the stand.

The expert witnesses also spent little time

with the accused, Christensen-Moore said, adding that the sleep expert reported that

“There doesn’t seem to be a real motive for this crime, however, following the commission of an offence, there can be a motive to reinvent how it happened,” she said.

“There certainly was evidence both from the defence case and the Crown case that (he) did have anger issues, that he had some rage control issues that he had tried to address previously with physicians and psychological care.”

The judge is expected to announce his decision on June 29.



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